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Memorandum

July 17, 2018

TO: Opioid and Other Substance Use Disorders Study Committee

FROM: Elizabeth Haskell, Senior Research Associate, 303-866-6264

SUBJECT: Summary of 2018 Opioid Legislation

Summary

This memorandum summarizes the six bills recommended by the 2017 Opioid and Other Substance Use Disorders Interim Study Committee. Five of the bills became law during the 2018 legislative session, and Senate Bill 18-040, concerning substance use disorder harm reduction, was postponed indefinitely in the Senate State, Veterans, and Military Affairs Committee.

Bills Recommended by the 2017 Opioid and Other Substance Use Disorders Interim Study Committee

House Bill 18-1003, concerning measures to prevent opioid misuse in Colorado, by Representative Pettersen and Senators Jahn and Priola. HB 18-1003 implements several policies related to the prevention of opioid and substance misuse. The bill:

- establishes the 10-member Opioid and Other Substance Use Disorders Study Committee as an interim study committee through July 1, 2020, with the committee authorized to meet up to six times during both the 2018 and 2019 interims and refer up to five bills per year;
- requires the Governor to direct the Colorado Consortium for Prescription Drug Abuse Prevention to develop a strategic plan concerning substance use recovery services and issue recommendations to the General Assembly by January 1, 2020;
- clarifies that school-based health centers that apply for grants from the Department of Public Health and Environment (CDPHE) can use this funding for education, intervention, and prevention for opioid, alcohol, marijuana, and other substance use disorders;
- requires that \$775,000 be appropriated to CDPHE in FY 2018-19 to expand school-based behavioral health services for opioid, alcohol, marijuana, and other substance abuse disorders in school-based health centers that serve communities with high risk factors for substance abuse combined with limited access to treatment services according to state needs assessments, Colorado health indicator data, and national best practice trends;

- directs the Department of Health Care Policy and Financing (HCPF) to make grants to one or more organizations to operate screening, brief intervention, and referral to treatment (SBIRT) programs and develop a patient education tool for women of childbearing age to learn about the risks of substance-exposed pregnancies; and
- directs the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies at the University of Colorado Health Sciences Center to:
 - develop and implement continuing medical education activities to help prescribers of pain medication to safely and effectively manage patients with chronic pain, and prescribe opioids when appropriate; and
 - develop education and training for law enforcement officers and first responders concerning the use of opioid antagonists.

HB 18-1003 became effective May 21, 2018.

House Bill 18-1007, concerning payment issues related to substance use disorders, by Representatives Kennedy and Singer and Senators Lambert and Jahn. HB 18-1007 makes several changes to payment and coverage for substance use disorder treatment under private health insurance plans regulated by the Division of Insurance and the state Medicaid program. Specifically, the bill:

- requires health benefit plans to provide coverage without prior authorization for a five-day supply of at least one drug for the treatment of opioid dependence, such as methadone or buprenorphine, for a covered person's first request during a 12-month period, with prior authorization permitted for subsequent requests;
- requires health benefit plans to handle a request for medication-assisted treatment (MAT) as an urgent prior authorization request;
- requires contracts between a health insurance carrier and a provider to include a provision prohibiting the carrier from taking adverse action against a provider based solely on the results of a patient satisfaction survey or other method of getting patient feedback relating to patient satisfaction with pain treatment;
- requires that Medicaid provide reimbursement for at least one federally approved, ready-to-use opioid overdose reversal drug, such as naloxone, without prior authorization;
- requires health benefit plans and Medicaid to provide an enhanced dispensing fee to pharmacists who administer injections of MAT when practicing under a collaborative practice agreement with a physician; and
- requires HCPF and the Office of Behavioral Health in the Department of Human Services to establish rules to standardize utilization management authority timelines for the non-pharmaceutical components of MAT services.

House Bill 18-1007 becomes effective on January 1, 2019.

Senate Bill 18-022, concerning clinical practice measures for safer opioid prescribing, by Senators Aguilar and Tate and Representatives Kennedy and Pettersen. SB 18-022 limits to a seven-day supply, the number of opioid pills that a health care provider may prescribe to a patient if the patient has not been prescribed an opioid by the provider in the past 12 months. At the discretion of the provider, the prescription may include one refill for an additional seven-day supply. The limit on initial prescribing does not apply if, in the judgment of the health care practitioner, the patient:

- has chronic pain that typically lasts longer than 90 days or past the time of normal healing, as determined by the health care practitioner, or following transfer of care from another practitioner who prescribed an opioid to the patient;
- has been diagnosed with cancer and is experiencing cancer-related pain; or
- is experiencing post-surgical pain that, because of the nature of the procedure, is expected to last more than 14 days.

Additionally, a physician, a physician assistant, and an advanced practice nurse is not subject to the prescription limits if the patient is undergoing palliative or hospice care. A violation of the bill's provisions does not constitute negligence or contributory negligence per se and does not create a private right of action or serve as the basis of a cause of action. The restrictions on opioid prescriptions repeal on September 1, 2021.

With certain exceptions, the bill also requires that health care providers query the Prescription Drug Monitoring Program (PDMP) prior to prescribing the first refill prescription for an opioid. The provider must indicate his or her specialty or practice area upon making an initial query to the PDMP.

By September 1, 2019, the CDPHE is required to report its findings to the General Assembly from studies conducted on PDMP integration methods and health care provider report cards. The department is also required to provide the findings to the Center for Research Into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies at the University of Colorado Health Sciences Center. The center is required to use the information to provide voluntary training for health care providers in targeted areas. These provisions are repealed July 1, 2020.

Senate Bill 18-022 became effective May 21, 2018.

Senate Bill 18-024, concerning modifications to the Colorado Health Service Corps Program to expand the availability of behavioral health care providers in shortage areas in the state, by Senators Jahn and Tate and Representatives Pettersen and Singer. SB 18-024 adds behavioral health care providers and candidates for certain types of professional licensure to the list of health care providers eligible for loan repayment through the Colorado Health Service Corps Program (CHSC). Candidates for licensure must serve at least two years in a shortage area after obtaining a license, plus the time spent obtaining supervised experience hours. CDPHE must develop and administer state-designated health professional shortage areas. The bill specifies that CHSC loan repayment recipients must serve in a health professional shortage area as designated by either the state or federal government.

The bill also creates a scholarship program to cover the costs of obtaining certification as an addiction counselor for individuals who agree to serve in a state or federally designated health professional shortage area for at least six consecutive months. When considering applications from behavioral

health care providers for loan repayment through the CHSC and the newly-created scholarship program, the CHSC Advisory Council must give priority to applicants who are practicing with a non-profit or public employer.

Senate Bill 18-024 became effective July 1, 2018.

House Bill 18-1136, concerning treatment for individuals with substance use disorders, and adding residential and inpatient treatment to Colorado's Medicaid program, by Representative Pettersen and Senators Priola and Jahn. HB 18-1136 adds inpatient and residential substance use disorder treatment as a benefit under the Colorado Medicaid program, conditional upon federal approval. The benefit is limited to persons who meet nationally recognized, evidence-based level of care criteria for residential and inpatient substance use disorder treatment, and covers all levels of care. HCPF must request federal approval by October 1, 2018. Prior to seeking federal approval, the department must consult with relevant stakeholders including existing treatment providers and managed service organizations, about the following:

- the coordination of benefits;
- the most appropriate entity for administration of the benefit;
- wraparound services needed during treatment;
- the authorization process for approval of services; and
- a sustainable reimbursement rate methodology that considers the actual cost of providing care.

HCPF must submit a performance review report to the JBC and the Joint Health Committee concerning services provided under the benefit and the effectiveness of those services. If the new benefit is enacted, the bill requires that managed service organizations contracted by the Office of Behavioral Health reprioritize Marijuana Tax Cash Fund funding for persons who are not eligible for substance use treatment under public or private insurance.

House Bill 18-1136 became effective on June 5, 2018.

Senate Bill 18-040, concerning substance use disorder harm reduction, by Senators Lambert and Jahn and Representative Singer. SB 18-040 would have established several harm reduction measures concerning opioid and injection drug use. First, the bill would have established a pilot program in the City and County of Denver for a single supervised injection facility at which persons could inject previously obtained drugs under medical supervision. The bill provided civil and criminal immunity to persons using drugs at the site and to staff and volunteers working at the facility. The approval of the Denver Board of Health would have been required to establish a supervised injection facility.

Second, the bill allowed hospitals to serve as clean syringe exchange program locations, and provided civil immunity to individuals providing and receiving clean syringes under a hospital-based exchange program. Third, the bill allowed school districts and nonpublic schools to develop policies for obtaining opiate antagonists and training school employees to use these drugs in the event of an opioid-related overdose event. Lastly, the bill required the Colorado Commission on Criminal and Juvenile Justice in the Department of Public Safety to study criminal sentencing relating to opioids and synthetic opiates and present its findings in its annual report.

The bill was postponed indefinitely in the Senate State, Veterans, and Military Affairs Committee and did not take effect.